


INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT	STATUS:	POLICY NUMBER: Air 033 NPD	
AGENCY NONRULE POLICY DOCUMENT	AUTHORIZED: Thomas W. Easterly		
	SUPERSEDES: NEW	ISSUING OFFICE(S): Office of Air Quality Permits Branch	
	ORIGINALLY EFFECTIVE:	RENEWED/REVISED:	

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1.0 PURPOSE

This policy provides for the consistent use of a notice of deficiency and for placing an air permit application on hold.

2.0 SCOPE

This policy applies to all air permit applications.

3.0 SUMMARY

This policy establishes the procedure for issuing a notice of deficiency, for denying an air permit application when an applicant makes no response, refuses to make a response or makes incomplete responses, and for responding to applicant requests to place an air permit application on hold.

4.0 DEFINITIONS

- 4.1 "Air permit application" – an application for an air pollution control permit.
- 4.2 "Applicant" – the air pollution source that has filed an air permit application.
- 4.3 "Assistant Commissioner" – the senior manager for the Office of Air Quality: responsible for managing Branch Chiefs and making policy decisions for the Office of Air Quality.
- 4.4 "Branch Chief" – a second-level Agency supervisor responsible for managing Section Chiefs and non-supervisory Agency staff.
- 4.5 "Data" – the information that should be contained in an air permit application.

- 4.6 “Days” - calendar days including weekends and holidays.
- 4.7 “Deny” – the act of refusing to grant or issue a request or application.
- 4.8 “Incomplete response” – an applicant’s reply to a notice of deficiency that does not contain the requested information.
- 4.9 “Indiana Administrative Code” or “IAC” - A collection of the rules of various State of Indiana boards and agencies. The rules of the Indiana Air Pollution Control board (APCB) are located at Title 326 of the IAC.
- 4.10 “Issue” – to send under signature.
- 4.11 “Notice of deficiency” or “NOD” – a written statement, either electronic or in hard copy, listing information required to continue processing an air permit application.
- 4.12 “On hold” or “hold” – the status of an air permit application when, at the request of the applicant, it is not being processed.
- 4.13 “Permit application” – an application for an air pollution control permit.
- 4.14 “Permit writer” – the person in the Permits Branch who reviews the air permit application and writes the air pollution control permit.
- 4.15 “Permits Branch” – a branch of the Office of Air Quality that reviews and makes decisions regarding air permit applications.
- 4.16 “Recommendation” – a writing suggesting a course of action prepared by a permit writer.
- 4.17 “Reminder” – a written statement, either electronic or in hard copy, giving a second notice regarding information required to continue processing an air permit application.
- 4.18 “Response” – an applicant’s reply to a notice of deficiency.
- 4.19 “Section Chief” – the front line manager who functions as the supervisor for a permit writer.
- 4.20 “Send” – communicate, either electronically or in hard copy.

5.0 ROLES

5.1. The permit writer shall:

- A. Determine whether the air permit application contains the data necessary to process the application.
- B. For an air permit application processed under 326 IAC 2-7 or 326 IAC 2-8:
 - 1. If the air permit application does not contain all the data required to process the application, identify the missing data, notify the applicant that they will be receiving a NOD that lists the missing data and that they will have 30 days in which to send the requested data to the permit writer. Draft the NOD and send it to the applicant.
 - 2. If the permit writer does not receive the requested data within 14 days of sending the NOD, send the applicant a reminder listing the missing data and the deadline for receipt of the requested data.
 - 3. If the applicant does not respond to the NOD within 30 days or refuses to provide a response, draft a recommendation and application denial. Forward the recommendation and application denial to the Section Chief for approval or direction.

4. If the applicant provides an incomplete response to the NOD, identify the remaining missing data and notify the applicant that they have an additional 30 days in which to send the requested data to the permit writer. If the applicant does not respond to the NOD within 30 days, draft a recommendation and permit application denial. Forward the recommendation and permit application denial to the Section Chief for approval or direction.

C. For an air permit application processed under rules other than 326 IAC 2-7 or 326 IAC 2-8:

1. If the air permit application does not contain all the data required to process the application, identify the missing data, notify the applicant that they will be receiving a NOD that lists the missing data and that they will have 60 days in which to send the requested data to the permit writer. Draft the NOD and send it to the applicant.

2. If the permit writer does not receive the requested data within 30 days of sending the NOD, send the applicant a reminder listing the missing data and the deadline for receipt of the requested data.

3. If the applicant does not respond to the NOD within 60 days, draft a recommendation and permit application denial. Forward the recommendation and permit application denial to the Section Chief for approval or direction.

4. If the applicant provides an incomplete response to the initial NOD, identify the missing data and notify the applicant that they will have an additional 30 days to submit the missing data. If the applicant does not submit the missing data within the additional 30 days, draft a recommendation and permit application denial. Forward the recommendation and permit application denial to the Section Chief for approval or direction.

D. If an applicant who has received a NOD requests that an air permit application be placed on hold, forward the request and a recommendation to the Section Chief for approval or direction.

5.2 The Section Chief shall:

A. Ensure that the permit writer has made a reasonable attempt to contact the applicant to obtain all missing data.

B. For an air permit application processed under 326 IAC 2-7 or 326 IAC 2-8:

1. Pursuant to 5.1B3, if the applicant has failed to respond or indicated that the missing data is not available, the section chief shall recommend denial of an air permit application based on a refusal or failure to provide data requested in a NOD within 30 days of receipt of the initial NOD. Forward the recommendation and air permit application denial to the Branch Chief for approval or direction.

2. Pursuant to 5.1B3 and 5.1B4, if the applicant provides an incomplete response to a NOD or if the applicant has not provided the requested data within 60 days of receipt of the initial NOD, the section chief shall recommend denial of an air permit application based on an incomplete response to a NOD. Forward the recommendation and air permit application denial to the Branch Chief for approval or direction.

C. For an air permit application processed under rules other than 326 IAC 2-7 or 326 IAC 2-8:

1. Pursuant to 5.1C3, if the applicant refuses to provide data requested in a NOD within 60 days of receipt of the NOD, the section chief shall recommend denial of the air permit application. Forward the recommendation and air permit application denial to the Branch Chief for approval or direction.

2. Pursuant to 5.1C3 and 5.1C4, if the applicant provides an incomplete response to a NOD or the applicant has not provided the requested data within 90 days of receipt of the initial NOD, the Section Chief shall recommend denial of an air permit application based on an incomplete response to a NOD. Forward the recommendation and permit application denial to the Branch Chief for approval or direction.

D. Review a permit writer's recommendation to approve or deny placing an air permit application on hold. Forward the permit writer's recommendation to the Branch Chief for approval or direction.

E. Review a permit writer's subsequent recommendation to approve or deny placing an air permit application on hold for more than 30 days. Forward the permit writer's recommendation to the Branch Chief for approval or direction.

F. Review a permit writer's request and recommendation to approve or deny placing an air permit application on hold for more than 30 days. Forward the permit writer's recommendation to the Branch Chief for approval or direction.

5.3 The Branch Chief shall:

A. Ensure that the permit writer has made a reasonable attempt to contact the applicant to obtain all missing data from the applicant necessary to write the permit.

B. Ensure that the Section Chief has appropriately processed the request or recommendation per this nonrule policy document.

C. Review a recommendation to:

1. deny an air permit application;
2. deny or approve a request to place an air permit application on hold;
3. deny or approve a subsequent request to place an air permit application on hold; or
4. deny or approve a request to place an air permit application on hold for more than 30 days.

D. Approve the following:

1. a request to place an air permit application on hold;
2. a subsequent request to place an air permit application on hold; or
3. a request to place an air permit application on hold for more than 30 days.

E. Forward a proposed air permit application denial or a hold request denial to the Assistant Commissioner with a request for authorization to approve or direction.

F. Issue an air permit application denial or a hold request denial following authorization by the Assistant Commissioner.

5.4 The Assistant Commissioner shall:

A. Review the recommendations of the Section Chief and Branch Chief to deny an application and either authorize the Branch Chief to issue the air permit application denial or provide direction to the permit writer.

B. Review the recommendations of the Section Chief and Branch Chief to deny placing an air permit application on hold and either authorize the Branch Chief to deny the hold request or provide direction to the permit writer.

6.0 POLICY

6.1 The permit writer shall send a NOD to the applicant when an air permit application does not contain sufficient data to process the air permit application.

6.2 For an air permit application processed under 326 IAC 2-7 or 326 IAC 2-8, if the applicant does not respond to the NOD within 14 days of sending the NOD, the permit writer shall send a reminder to the applicant listing the missing data and the deadline for receipt of the requested data.

6.3 For an air permit application processed under 326 IAC 2-7 or 326 IAC 2-8, if the applicant does not respond to the NOD within 30 days or refuses to make a response, the permit writer shall draft a denial of the air permit application and forward to the Section Chief for approval or direction.

6.4 For an air permit application processed under 326 IAC 2-7 or 326 IAC 2-8, if the applicant provides an incomplete response, the permit writer will identify the remaining missing data and notify the applicant that they have an additional 30 days to in which to submit the requested data. If the applicant does not submit the missing data within the additional 30 days, the permit writer shall draft a recommendation and a denial of the air permit application and forward to the Section Chief for approval or direction.

6.5 For an air permit application processed under rules other than 326 IAC 2-7 or 326 IAC 2-8, if the applicant does not respond to the NOD within 30 days of sending the NOD, the permit writer shall send a reminder to the applicant listing the missing data and the deadline for receipt of the requested data.

6.6 For an air permit application processed under rules other than 326 IAC 2-7 or 326 IAC 208, if the applicant does not respond to the NOD within 60 days, the permit writer shall draft a recommendation and a denial of the air permit application and forward to the Section Chief for approval or direction.

6.7 For an air permit application processed under rules other than 326 IAC 2-7 or 326 IAC 2-8, if the applicant makes an incomplete response, the permit writer shall identify the missing data and notify the applicant that they have an additional 30 days in which to submit the requested data. If the applicant does not submit the requested data within the additional 30 days, the permit writer shall draft a recommendation and a denial of the permit application and forward to the Section Chief for approval or direction.

6.8 The Section Chief shall forward to the Branch Chief for approval or direction a recommendation to deny an air permit application or a request to deny placing an air permit application on hold.

6.9 The Branch Chief shall consult with the Assistant Commissioner before approving a recommendation to deny an air permit application or to deny a request to place an air permit application on hold.

6.10 An air permit application should not be placed on hold for more than 30 days.

6.11 An air permit application should not be placed on hold more than once.

6.12 The Assistant Commissioner shall approve a recommendation to deny an air permit application; the Branch Chief shall issue the air permit application denial consistent with the Assistant Commissioner's direction.

6.13 The Assistant Commissioner shall approve a request to deny placing an air permit application on hold; the Branch Chief shall approve a request to deny placing an air permit application on hold or deny an air permit application consistent with the Assistant Commissioner's direction.

REFERENCES

- 7.1 Indiana Code 13-14-1-11.5 Duties of department: policy statements
- 7.2 Indiana Code 13-15-4-9 Denial of applications
- 7.3 326 Indiana Administrative Code (IAC) 2-1.1-8(j) Time periods for determination on permit applications: Denial of incomplete application
- 7.4 326 IAC 2-5.1-3 Construction Permit: Incomplete Application
- 7.5 326 IAC 2-5.5-3(d) Registration: Incomplete Application
- 7.6 326 IAC 2-6.1-4 Minor Source Operating Permit: Incomplete Application
- 7.7 326 IAC 2-7-4(a)(2)(D) Incomplete Application
- 7.8 326 IAC 2-8-3(g) Incomplete Application
- 7.9 Agency Policy A-054-OEA-07-P-RO Nonrule Policy Document Development and Approval

7.0 SIGNATURES

Thomas W. Easterly, Commissioner,
Indiana Department of Environmental Management

Date

Daniel Murray, Assistant Commissioner,
Office of Air Quality

Date

Robert B. Keene, Assistant Commissioner,
Office of Legal Counsel

Date

This policy is consistent with Agency requirements.

Indiana Department of Environmental Management
Quality Assurance Program
Planning and Assessment

Date